

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING VARIANCE REPORT (#FZV-15-02)
PATTI BEACH
JULY 21, 2015

A report to the Flathead County Board of Adjustment regarding a request by Patti Beach for a variance to the front yard setback requirements found in Section 3.13.040(3)(A) Flathead County Zoning Regulations (FCZR). The variance requested would apply to property located at 407 Maple Drive in Evergreen which is zoned "R-5 Two-Family Residential" and located within the Evergreen Zoning District.

The Flathead County Board of Adjustment will hold a public hearing on the variance request on August 4, 2015 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Council.

B. Board of Adjustment

This space will contain an update regarding the Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Landowner/Applicant

Patti Beach
2155 9th St. W #15
Columbia Falls, MT 59912

B. Property Location

The subject property is approximately 0.1 acres and is located at 407 Maple Drive in Evergreen, MT. The property can be legally described as Lot 2 of Maple Drive Subdivision in Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Aerial of the subject property (outlined in red)



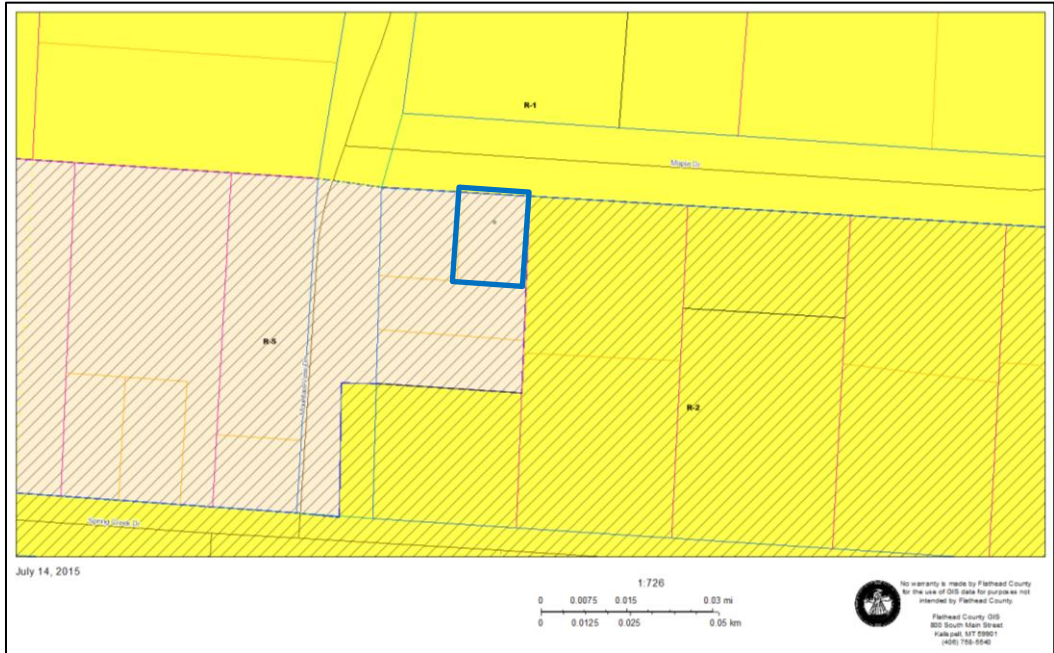
C. Existing Land Use(s) and Zoning

The subject property is located in the Evergreen Zoning District and zoned ‘R-5 Two-Family Residential.’ R-5 is defined as, “A *residential district with minimum lot areas. Development within the district will require all public utilities, and all community facilities. A duplex is allowed in this district,*” per Section 3.13.010 FCZR. The property is currently vacant with some trees and shrubs located on the edges of the property.

D. Adjacent Land Use(s) and Zoning

Properties to the south and west of the subject property are similarly zoned “R-5 Two-Family Residential,” properties to the north are zoned “R-1 Suburban Residential” and properties to the east are zoned “R-2 One Family Limited Residential” (See Figure 2). The area is primarily residential with single family dwelling and multifamily residential located on all sides of the subject property.

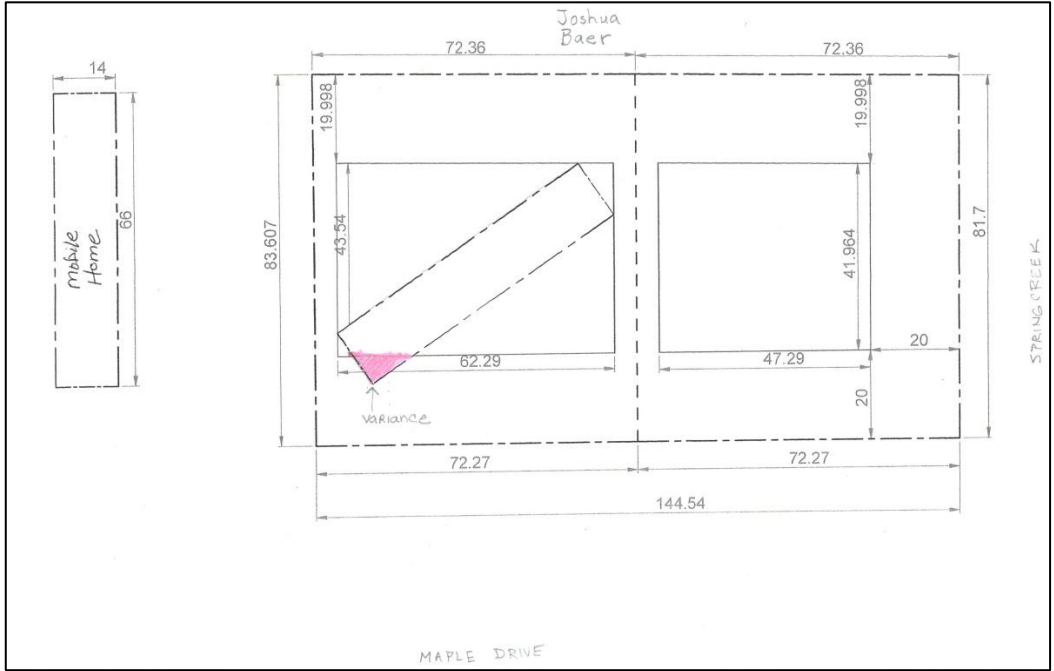
Figure 2: Zoning of the subject property (outlined in blue) and surrounding area



E. Summary of Request

The applicant is proposing to place a Class B manufactured home on the subject property. Class B manufactured homes are listed as a permitted use within the R-5 zone. The applicant states, “The variance I am requesting is to (sic) able to use a small portion of the 20 ft front setback for a corner of my mobile home as the (sic) will not fit after taking into account all of the setbacks.”

Figure 3: Proposed Site Plan



The subject property is rectangular in shape and is approximately 72 feet wide by 84 feet long. The front and rear setbacks for the property is 20 feet and the side setback is 5 feet, per Section 3.13.040(3)(A) FCZR. This leaves a buildable area outside of the setbacks of 62 feet by 44 feet. The applicant is proposing to place a manufactured home that is 66 feet long by 14 feet wide, is a standard size for a manufactured home. The manufactured home is 4 feet longer than the buildable width of the lot. The applicant is therefore proposing to place the manufactured home at an angle which would require a variance to the front yard setback (see Figure 3 above).

F. Compliance with Public Notice Requirements

Notification was mailed to adjacent property owners within 150 feet of the subject property on July 15, 2015 pursuant to Section 2.05.030(2) of the Zoning Regulations. Legal notice of the public hearing on this application will be published in the July 18, 2015 edition of the Daily Interlake.

G. Agency Referrals

Agency referrals were sent to agencies listed below regarding the variance request.

- Evergreen Water and Sewer District
 - Reason: The property is located within the Evergreen Water and Sewer District and has the potential to impact services.
- Evergreen Fire District
 - Reason: The property is located within the Evergreen Fire District and has the potential to impact services.
- Flathead City-County Health Department
 - Reason: The property is located within the department's jurisdiction.
- Flathead County Road and Bridge Department
 - Reason: The property is located within the department's jurisdiction, and has the potential to impact county facilities.

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the variance request. It is anticipated any individual wishing to provide public comment on the application will do so during the public hearing at the Board of Adjustment meeting scheduled for August 4, 2015.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Evergreen Water and Sewer District
 - Comment: "We have no issues with the zoning variance, but I don't believe there is a tank on this lot yet and there must be 10 feet separation between the septic tank and the house and also between sewer and water lines. They should bring a site plan into our office so we can look it over before they get too far with the planning and

placement.” Email received April 23, 2015

- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated June 29, 2015.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Section 2.05.030 of the FCZR, what follows are review criteria for consideration of a variance request, as well as suggested findings of fact based on review of each criterion. It should be noted Section 2.05.030 of the FCZR states “No variance shall be granted unless the Board (of Adjustment) finds that all of the following conditions are met or found to be not pertinent to the particular case.”

A. Strict compliance with the provisions of these regulations will:

i. Limit the reasonable use of property;

Strict compliance with the zoning regulations could limit the reasonable use of the subject property. The property is rectangular in shape and is approximately 72 feet wide by 84 feet long. The front and rear setbacks for the property is 20 feet and the side setback is 5 feet, per Section 3.13.040(3)(A) FCZR. The buildable area is 62 feet long by 44 feet wide. Class B manufactured homes are listed as a permitted use within the R-5 zone and many Class B manufactured homes are longer 62 feet.

According to the application, “Strict compliance would limit the reasonable use of the property as I would not be able to move my mobile home on it.” The applicant is proposing to place a manufactured home that is 66 feet long by 14 feet wide on the subject property. The manufactured home is 4 feet longer than the buildable length of 62 feet making it impossible to place the manufactured home on the property without a variance. Therefore, it appears that strict compliance with the front setbacks could potentially limit the reasonable use of the property by not allowing manufactured homes on the property.

Finding #1 - Strict compliance with the regulations could limit the reasonable use of the property because a Class B Manufactured home is a permitted use within the R-5 zone, the buildable area is 62 feet by 44 feet and a typical Class B manufactured home length is 66 feet which would not fit on the subject property unless it encroached into the setbacks.

ii. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

The lots located within the R-5 zoning district range in size from 0.1 acre to 1.1 acres. Three of the lots zoned R-5 are vacant, one lot has multiple manufactured homes and the others have single family dwellings on them. Of the smaller lots within the R-5 zone at least two others also appear to not be able to have a Class B manufactured home placed on them. The larger lots within the R-5 zone and the lots more rectangular in shape would likely be able to have Class B manufactured home but not the more square lots similar to the subject property.

According to Flathead County's Geographic Information Systems Interactive Map Site (IMS) there are several manufactured homes within the district including the property directly to the east, which is zoned R-2. Many of the manufactured homes within the district are Class B manufactured homes and appear to be of similar size but located on larger lots. It appears that strict compliance with the regulations has the potential to deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

Finding #2 - Strict compliance with the regulations could deprive the applicant of rights enjoyed by other properties similarly situated in the same district because many of the manufactured homes within the district are Class B manufactured homes and appear to be of similar size but located on larger lots, also the larger lots within the R-5 zone and the lots more rectangular in shape would be able to have Class B manufactured home situated on them.

B. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.

The applicant states, "As one of the smallest lots in the area the set backs (sic) consume over half the total area." The lot is approximately 5,976 square feet and the minimum lot size within the R-5 zone is 5,400 square feet. Many of the properties in the area are zoned R-1 and R-2 with minimum lot sizes of 1 acre and 20,000 square feet respectively and most of the larger lots in the area appear to be located in the R-1 and R-2 zones where the minimum lot size is greater.

The subject property meets the minimum lot size requirements of the R-5 zone. However, as previously stated a Class B manufactured home is a permitted use but because of the shape of the lot (approximately 72 feet wide by 84 feet long) and the setbacks, a standard 66 foot long Class B manufactured home will not fit on the lot without encroaching into the setbacks. Therefore the alleged hardship appears to be the result of the lot shape.

Finding #3 – The alleged hardship appears to be attributable to the lot shape over which the applicant has no control because the lot is over the minimum lot size but the applicant is proposing to place a standard Class B Manufactured home that is 66 foot long on the lot which will not fit on the lot unless it encroaches into the setback as the lot is 72 feet wide with 5 foot side setbacks on each side.

C. The hardship is peculiar to the property.

As previously stated, the subject property meets the minimum lot size requirements of the R-5 zone. The lot is approximately 5,976 square feet and the minimum lot size within the R-5 zone is 5,400 square feet. However, a Class B manufactured home is a permitted use but because of the shape of the lot (approximately 72 feet wide by 84 feet long) and the setbacks, a typical 66 foot long Class B manufactured home will not fit on the lot without encroaching into the setbacks.

According to the application, "The variance would not create unusual use of the property but instead normal as there are other mobiles in the area." According to

Flathead County's IMS there are several manufactured homes within the district. Many of the manufactured homes within the district are Class B manufactured homes and appear to be of similar size but located on larger lots or lots more rectangular in shape which would accommodate the shape of the manufactured home better. The alleged hardship appears to be peculiar to the subject property.

Finding #4 – The alleged hardship appears to be peculiar to the subject property because even though the neighboring properties are able to place manufactured homes on their lot those lots are larger or more rectangular in shape which would accommodate the shape of the manufactured home better.

D. The hardship was not created by the applicant.

The applicant purchased the property after the lot was shaped as it is today. The application states, "Upon purchase of the property the understanding was and is that my mobile would be able to set on a single lot and was in fact contingent with in (sic) purchase." The alleged hardship does not appear to have been created by the applicant.

Finding #5 – The alleged hardship does not appear to be created by the applicant because as the lot was created prior to the applicant purchasing the property.

E. The hardship is not economic (when a reasonable or viable alternative exists).

The applicant could construct a stick built home outside of the setbacks on the property without the need for a variance. A Class B Manufactured home is a permitted use within the R-5 zoning district. It is reasonable for a property owner to be able to place a Class B manufactured home on their property when it is a permitted use and does not seem reasonable to require a property owner to construct a stick built home on their property when manufactured homes are permitted.

The other option besides stick built appears to be to place the manufactured home on the property parallel to the front boundary line; this would also result in the need for a variance to one or both of the side setbacks. Placing the manufactured home parallel to the front boundary line could put the structure 1 foot from the side property line. The request for a variance to the front yard would result in the manufactured home being setback 15 feet from the front boundary line, as opposed to 20 feet as required.

Finding #6 – The alleged hardship does not appear to be economic because no reasonable or viable alternative appears to exist as it is unreasonable to require a property owner to build a stick built house if a Class B manufactured home is permitted use within the R-5 zone, shifting the house to be situated parallel to the front boundary line would require a setback of 1 to 3 feet from one or both of the side boundary lines as opposed to 15 feet from the front boundary line.

F. Granting the variance will not adversely affect the neighboring properties or the public.

The application states, "This variance should not adversely affect neighboring properties as the set backs (sic) adjoining their properties would not be affected."

The request for a variance to the front yard would result in the manufactured home being setback 15 feet from the front boundary line which would likely not impact neighboring properties. The manufactured home would be setback from the road 15 feet and because the property is not a corner lot it would likely not impact site lines or traffic. Additionally, at the time of this report no complaints or written comments have been received regarding this request.

Finding #7 – Granting of the variance request would not appear to have a significant impact on neighboring properties or the public because no written comments or complaints have been submitted, the variance is for the front setback and site distances and traffic would likely not be impacted.

G. The variance requested is the minimum variance which will alleviate the hardship.

The application states, “This is the minimum variance and would alleviate the hardship and would allow me to move my mobile on it.” Another alternative appears to be to place the manufactured home on the property parallel to the front boundary line; this would also result in the need for a variance to one or both of the side setbacks. Placing the manufactured home parallel to the front boundary line would put the structures 1 to 3 feet from the side property lines. The request for a variance to the front yard would result in the manufactured home being setback 15 feet from the front boundary line. It appears that the variance requested would be the minimum variance which would alleviate the hardship.

Finding #8 – The variance requested appears to be the minimum variance which would alleviate the alleged hardship because orienting the manufactured home on the lot in any other direction would also require a variance and placing the manufactured home parallel to the front boundary line would require the manufactured home to be setback 1 to 3 feet from the side boundary lines.

H. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

The applicant stated, “Granting the variance will not confer a special privilege as I consider it a reasonable request and not a special privilege.” As previously stated, according to Flathead County’s IMS there are several manufactured homes within the district. Many of the manufactured homes within the district are Class B manufactured homes and appear to be of similar size but located on larger lots. By allowing the variance the applicant would be able to place a Class B manufactured home on the subject property and would likely not confer a special privilege that is denied other similar properties in the same district.

Finding #9 – Granting of the variance would likely not confer a special privilege that is denied to other properties in the district because many of the Class B manufactured homes appear to be of similar size to the one being proposed for the subject property but located on larger lots or more rectangular in shape which would accommodate the shape of the manufactured home better.

V. SUMMARY OF FINDINGS

1. Strict compliance with the regulations could limit the reasonable use of the property because a Class B Manufactured home is a permitted use within the R-5

zone, the buildable area is 62 feet by 44 feet and a typical Class B manufactured home length is 66 feet which would not fit on the subject property unless it encroached into the setbacks.

2. Strict compliance with the regulations could deprive the applicant of rights enjoyed by other properties similarly situated in the same district because many of the manufactured homes within the district are Class B manufactured homes and appear to be of similar size but located on larger lots, also the larger lots within the R-5 zone and the lots more rectangular in shape would be able to have Class B manufactured home situated on them.
3. The alleged hardship appears to be attributable to the lot shape over which the applicant has no control because the lot is over the minimum lot size but the applicant is proposing to place a standard Class B Manufactured home that is 66 foot long on the lot which will not fit on the lot unless it encroaches into the setback as the lot is 72 feet wide with 5 foot side setbacks on each side.
4. The alleged hardship appears to be peculiar to the subject property because even though the neighboring properties are able to place manufactured homes on their lot those lots are larger or more rectangular in shape which would accommodate the shape of the manufactured home better.
5. The alleged hardship does not appear to be created by the applicant because as the lot was created prior to the applicant purchasing the property.
6. The alleged hardship does not appear to be economic because no reasonable or viable alternative appears to exist as it is unreasonable to require a property owner to build a stick built house if a Class B manufactured home is permitted use within the R-5 zone, shifting the house to be situated parallel to the front boundary line would require a setback of 1 to 3 feet from one or both of the side boundary lines as opposed to 15 feet from the front boundary line.
7. Granting of the variance request would not appear to have a significant impact on neighboring properties or the public because no written comments or complaints have been submitted, the variance is for the front setback and site distances and traffic would likely not be impacted.
8. The variance requested appears to be the minimum variance which would alleviate the alleged hardship because orienting the manufactured home on the lot in any other direction would also require a variance and placing the manufactured home parallel to the front boundary line would require the manufactured home to be setback 1 to 3 feet from the side boundary lines.
9. Granting of the variance would likely not confer a special privilege that is denied to other properties in the district because many of the Class B manufactured homes appear to be of similar size to the one being proposed for the subject property but located on larger lots or more rectangular in shape which would accommodate the shape of the manufactured home better.

VI. CONCLUSION

Section 2.05.030(3) of the Flathead County Zoning Regulations states a variance shall not be granted unless all of the review criteria have been met or are found not to be pertinent

to a particular application. Upon review of this application, the request to allow for a variance to allow for a structure to be constructed within the front yard setback is supported by the review criteria and the Findings of Fact listed above.

Planner: EKM